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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 16TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR.JUSTICE V.K.SINGHAL

WRIT PETITION NO.34198-99/1997

BETWEEN:

1. M/s. Streamline Finvest,
a partnership firm,
c/o Manipal Finance
corporation Ltd.,
No.105/106, Shyamkamal,
D building (B Wing)
B.N.Agarwal market,
vile Parle (East)
Mumbai - 400 057,
rep. by its partner
Mr. Kishore Y.Patel

..petitioner

2.M/s. Streamline Finvest (P) Ltd.,
c/o Manipal Finance corporation
Limited, No.105/106, Shyamkamal, B.

/2/

D Building (B wing),

B.N.Agarwal Market,

Vile parle (East)

Mumbai-400 057, rep. by

its Director

Mr.Kishore Y Patel

..petrs

(By Sri Kishore Malliya for petr-1

■/s Cariappa _ Co for petr-2)

AND:

1. Chief Commissioner

of Income tax,

Karnataka and Goa,

Queens road,

Bangalore.

2. Govt. of India,

rep. by the president

of India, Rastrapathi, Bhavan,

NEW DELHI.

...Respondents.

(By Sri M.V.Seshachala ,

Sri Shivayogiswamy GA for R-3)

W.P. filed u/a 226 of the constitution of India
with an affidavit praying to: Calling upon the respondents
to produce all the papers and proceedings with regard

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to the auction held of the said property on 21.8.96
and after looking into the legality of the said
auction quash the auction sale dated 21.8.96 vide
Ann.A and the order of the Respondents dated 17.11.97
vide Ann."EE" forfeiting the amounts paid by the
first petitioner and etc.,

W.P. coming on for Prly.hg in B group this
day, the court made the following:

ORDER

Cm (cause title only)

r.by: 26/6/98

c.by: P



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24/6/98
VKSJ.
16-6-98

W.P.NO.34198-99/1997

ORDER

Petitioner No.2 was the auction purchaser and petitioner No.1 is the Partnership firm which has subsequently been formed by the Directors of petitioner No.2. In these petitions, the petitioner has assailed the notice on the ground that the ^{1.5% of bid amount} ~~same~~ (Annexures-EE) ^{is sought to be} ~~are~~ forfeited ~~the auction money~~ on account of non-payment of the balance amount. The petitioner submits that the respondents have no right of transfer and there is no proper title for auctioning the said property. The amount which has been collected at the time of auction is liable to be refunded. .

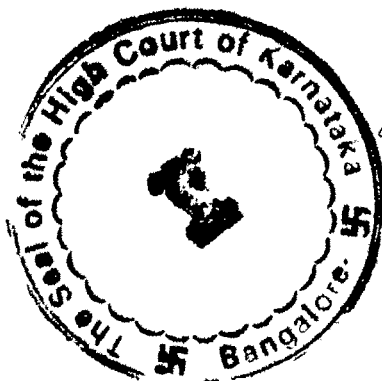
2. I have heard the arguments of the learned counsel appearing for the parties.

3. The question regarding title itself involves investigating of facts. If a property is transferred by an authority who has no title, then all the proceedings are void but for the declaration to that effect the proper course is either to approach the Civil Court for adjudication of the dispute

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regarding the title of the property or to approach the respondents, who may by themselves consider the objections of the auction purchaser. In view of the facts and circumstances of this case, the petitioner may now submit a detailed representation to the Chief Commissioner of Income Tax in Karnataka, Bangalore, within a period of 4 weeks from today, who will hear the petitioner and would take into consideration all the objections raised by the petitioner herein.

If still the respondents are of the view that they are having the proper title after hearing the petitioner then they may proceed and in that case the petitioner may approach the Civil Court. If the Chief Commissioner is of the view that the Income Tax Department had no right to action the property, then the amount so collected from the petitioner is to be refunded. The question regarding impleading the petitioner No.1 would also be considered by the Commissioner looking to the broader interest of the petitioner as well as the revenue. Writ Petitions stand disposed of with the above observations.



kvv

Sd/-
JUDGE

